

Article - Insurance

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§15–1642.

(a) It is a violation of this subtitle for a pharmacy benefits manager to:

(1) misrepresent pertinent facts or policy provisions that relate to a claim or the compensation program at issue in a complaint or an appeal of a decision regarding a complaint;

(2) refuse to pay a claim for an arbitrary or capricious reason based on all available information;

(3) fail to settle a claim or dispute promptly whenever liability is reasonably clear under one part of a policy or contract, in order to influence settlements under other parts of the policy or contract; or

(4) fail to act in good faith.

(b) It is a violation of this subtitle for a pharmacy benefits manager, when committed at a frequency to indicate a general business practice, to:

(1) misrepresent pertinent facts or policy provisions that relate to a claim, the compensation program, or the coverage at issue in a complaint or an appeal of a decision regarding a complaint;

(2) fail to make a prompt, fair, and equitable good-faith attempt to settle claims for which liability has become reasonably clear;

(3) fail to settle a claim promptly whenever liability is reasonably clear under one part of a policy or contract, in order to influence settlements under other parts of the policy or contract; or

(4) refuse to pay a claim for an arbitrary or capricious reason based on all available information.

(c) If the Commissioner determines that a pharmacy benefits manager has violated any provision of this subtitle or any regulation adopted under this subtitle, the Commissioner may issue an order that requires the pharmacy benefits manager to:

(1) cease and desist from the identified violation and further similar violations;

(2) take specific affirmative action to correct the violation;

(3) make restitution of money, property, or other assets to a person that has suffered financial injury because of the violation; or

(4) pay a fine in an amount determined by the Commissioner.

(d) (1) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is registered under Part II of this subtitle in the manner provided in § 2–204 of this article.

(2) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is not registered under Part II of this subtitle in the manner provided in § 4–206 or § 4–207 of this article for service on an unauthorized insurer that does an act of insurance business in the State.

(3) A request for a hearing on any order issued under this section does not stay that portion of the order that requires the pharmacy benefits manager to cease and desist from conduct identified in the order.

(4) The Commissioner may file a petition in the circuit court of any county to enforce an order issued under this section, whether or not a hearing has been requested or, if requested, whether or not a hearing has been held.

(5) If the Commissioner prevails in an action brought under this section, the Commissioner may recover, for the use of the State, reasonable attorney's fees and the costs of the action.

(e) In addition to any other enforcement action taken by the Commissioner under this section, the Commissioner may impose a civil penalty not exceeding \$10,000 for each violation of this subtitle.

(f) The Commissioner may adopt regulations:

(1) to carry out this subtitle; and

(2) to establish a complaint process to address grievances and appeals brought in accordance with this subtitle.

(g) This section does not limit any other regulatory authority of the Commissioner under this article.

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